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(2)

Gist of the letter from Clerk of the House of Representatives, Canberra, A.C.T., Australia.

The Parliamentary building in Canberra is a complete unit not intersected by roads, paths, etc. According to the definition given in May's Parliamentary Practice the precincts there mean " any part of the area within the walls of the Parliamentary building " containing the Senate and the House of Representatives and the associated offices and facilities.

This definition of the " precincts of the House " has been used by Speaker of the House of Representatives in ordering the withdrawal of a Member suspended from the " service of the House ". In view, however, of the remoteness of Canberra from the main centres of population, the House has by a resolution decided that " suspension from the service of the House involves exclusion from the Chamber and its immediate surrounding but does not involve deprivation of the other amenities of the building ".

The House of Representatives had no occasion to define ' precincts ' for purposes of a privilege matter.

APPENDIX VI.

(1)

Demi-official letter from the Secretary to the State Legislature, Government Estate, Mount Road, Madras-2, to Sri R. V. KRISHNA AYYAR, B.A., M.L., retired Secretary to the State Legislature, No. 7, North Chitrakulam street, Mylapore, Madras, dated 24th June 1955, No. 2871/55-12-M.L.

[Precincts of the House—Definition of.]

You will remember that about the last week of February 1955 when a Committee of the House was sitting to consider the Madras Indebted Agriculturists (Repayment of Debts) Bill, the Secretary to the Madras Legislature received a letter from a Judicial Sub-Magistrate, South Kanara, with a request to inform the Hon. the Speaker that he had issued a bailable warrant against a Member of the Legislature. This Member was a member of the Committee which was then sitting. On a representation made to the Hon. the Leader of the House by the Secretary, as instructed by the Hon. the Speaker, that the service of a legal process or the execution of a legal process within the precincts of the Legislature during the sitting of the House or the sitting of a Committee without the leave of the House would be a breach of privilege, the execution of the bailable warrant on the member was prevented. Some time later, another Member also informed the Hon. the Speaker that a constable wanted to serve a summons on him within the building of the Assembly.

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To prevent recurrence of similar incidents, the Hon. the Speaker prepared a note (copy enclosed) for the Members of the House regarding the service of legal process within the precincts of the House and referred the matter to the Committee of Privileges to report on the construction they want to put on the expression " precincts of the House " as regards the Madras Legislative Assembly.

The Privileges Committee at its meeting on the 4th April 1955 resolved that the Clerks of the House of Representatives, Australia, and of the House of Commons, Canada, might be addressed regarding the practice obtaining in those countries and that the opinion of the Advocate-General, Madras, might also be obtained as to the exact meaning of the word ' precincts ' with special reference to the conditions obtaining in the Government Estate. Copies of the note prepared for the Privileges Committee and of the replies received from the Advocate-General, Madras, the Clerks of the House of Representatives, Australia, and of the House of Commons, Canada, and from the Lok Sabha, are enclosed herewith.

I shall be very grateful if you would kindly give your expert opinion on them with special reference to the following points :—

(i) Whether the analogy that, for a stranger admitted within the parliamentary precincts with the permission, express or tacit, of the House to presume to serve the process of an inferior tribunal in the presence, actual or constructive, of the House is clearly an abuse of the privilege of admission to the House, and a violation of the dignity of the High Court of Parliament, as reported by the 1945 Committee of the House of Commons which went into the question of the service of legal process within the precincts of the House upon one of the officers of the House, holds good in the case of the Madras Legislative Assembly the validity of whose legislative enactments are liable to be questioned by any Court of Law?

(ii) If the service of summons or the arrest of a Member within the precincts of the House is to be prevented on a meeting day, till what time before and after the meeting should there be this ban on the service or execution of legal process?

(iii) Whether other buildings, viz., the cafetaria, the Ministers' rooms and the hostels can be included in the precincts of the House and, if so, under what conditions?

(iv) A number of visitors come on meeting days to interview the Hon. the Speaker and they are admitted to his Chamber without any restriction. Should the precincts, therefore, extend to the portico also?

Thanking you.

(2)

Letter from Sri R. V. KRISHNA AYYAR, B.A., M.L., No. 7, Chitrakulam North street, Mylapore, Madras, to Sri T. HANUMANTHAPPA, B.A. (Hon.), B.L., Secretary to the State Legislature, Madras-2, dated 30th June 1955.

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I thank you for your kind D.O. letter No. 2871/55-12-M.L., dated 24th June 1955.

My opinion on the points referred to me are as follows :—

1. The privileges of the State Legislature are laid down and recognized by Article 194 of the Indian Constitution, and are assimilated to those of the House of Commons in the United Kingdom. Therefore, the rule of the House of Commons relating to the service of processes and warrants within the precincts of Parliament—whether on members or on strangers—is fully applicable to the Madras Legislative Assembly. It is no doubt open to the State Legislature, by a law passed by it, to abolish or vary any of those privileges, but till now, the State Legislature has not passed any such law. The existing laws, if any, which deal with the service of processes or warrants generally on all persons, cannot be regarded as laws passed for defining the privileges of the Legislature in this particular respect, within the meaning of Article 194 of the Constitution.

2. The answer to this question may vary with the individuals who answer it and is a matter of opinion. In the Madras Legislature at one time, papers used to be placed on the seats of Members *one* hour before the commencement of a meeting. Even now, they are laid half an hour before a meeting. It is therefore not unusual for members to come to the Assemby some time before the time fixed for the meeting. Similarly, after the conclusion of a meeting, members often stay in the precincts of the House for some time, either to speak to the Presiding Officer or the Secretary or to make enquiries or obtain papers or information from the office. In the circumstances, it would be quite reasonable to allow an hour before and an hour after a meeting as the period covered by a sitting during which processes cannot be served on members within the precincts of the House. Even where a lunch or other interval intervenes between two meetings of the House on one and the same day, the above rule of one hour before and one hour after, will apply. Where a lunch interval is limited to one hour as on ordinary days or to two hours as on Fridays, it will be covered by the above rule. Where the interval is more than two hours, the privilege will not extend to the extra period.

The above rule will apply to strangers as well as to members and to meetings of Select or other Committees of the House as well as to meetings of the House itself.

3. This is the crucial question and an answer to it is also a matter of opinion. Rather than attempting to lay down a general principle or fromula for the guidance of officers attempting to serve processes within the precincts of the House and expecting them to apply it correctly in each case after making necessary enquiries about its applicability, it is desirable actually to define the precincts of the House, and remove all doubt as to what the precincts are. In

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defining the limits of the precincts of the House, we must see that the Assembly does not become a refuge for criminal and an asylum from which criminals can defy the law.

" The precincts of the House "—

(*a*) in connexion with a meeting of the House or of a Committee held in any of the rooms within the Assembly buildings may be defined as including the entire Assembly Buildings together with the Library, the refreshment rooms, the Ministers' rooms in the Government Estate, and the passages leading from the Assembly Buildings to the Library, refreshment rooms and the Ministers' rooms; and

(*b*) in connexion with a meeting of a Committee held outside the Assembly buildings as including the actual room in which the meeting is held together with the passages, staircases and other parts of the buildings in which that room is situated which are appurtenant to it or necessary for its use as a meeting place for the members of the Committee.

The Hostels are mere residences of Members and neither they nor any other buildings or places in the Government Estate should be treated as precincts of the Assembly.

4. Of course the portico must be regarded as part of the precincts of the Assembly.

Any decisions arrived at on the subject under discussing should be incorporated in a rule of the Assembly and published in the Gazette.

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TRUTH ALONE TRIUMPHS